

FIRST REGULAR SESSION

HOUSE BILL NO. 847

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES GARDNER (Sponsor), WEBB, SMITH (85), HOUGH, DUNN,
ELLINGTON, MORGAN, MIMS, WALTON GRAY, CURTIS AND OTTO (Co-sponsors).

1040L.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 476, RSMo, by adding thereto one new section relating to civil contempt for failure to appear for debt collection.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 476, RSMo, is amended by adding thereto one new section, to be
2 known as section 476.185, to read as follows:

476.185. 1. No order for the incarceration or detention of a natural person
2 **respondent to answer for a charge of indirect civil contempt shall be issued unless the**
3 **respondent has first had an opportunity, after being personally served a summons, to**
4 **appear in court to show cause why the respondent should not be held in contempt. The**
5 **summons shall be an order to show cause.**

6 **2. Any order issued under subsection 1 of this section shall expire one year after the**
7 **date of issue.**

8 **3. The first order issued under subsection 1 of this section and directed to the**
9 **respondent may be in the nature of a recognizance bond in the sum of no more than five**
10 **hundred dollars or personal recognizance for claims arising from consumer credit**
11 **transactions where the creditor is a vendor creditor or a lender creditor. As used in this**
12 **subsection, "vendor creditor" means a creditor who is a seller of a product or service, and**
13 **a "lender creditor" means a creditor who lends money to a consumer.**

14 **4. Upon discharge of any bond secured by the posting of funds, the funds shall be**
15 **returned to the respondent or other party posting the bond, less applicable fees, unless the**
16 **court after inquiry determines:**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **(1) The judgment debtor willfully has refused to comply with a payment order or**
18 **an otherwise validly entered order;**

19 **(2) The bond money belongs to the judgment debtor as opposed to a third party;**
20 **and**

21 **(3) That any part of the funds constitute nonexempt funds of the judgment debtor**
22 **based on information contained in the income and asset form under subsection 5 of this**
23 **section, in which case the court may cause the nonexempt portion of the funds to be paid**
24 **over to the judgment creditor.**

25 **5. Any natural person personally served a summons under subsection 1 of this**
26 **section shall also receive a copy of an income and asset form. Such form shall contain the**
27 **following information:**

28 **(1) Instructions for the judgment debtor to return the form at the hearing**
29 **referenced in the summons and any documents the judgment debtor has to support the**
30 **information in the form to help the court determine if the judgment debtor has property**
31 **or income that can be used to satisfy the judgment;**

32 **(2) Language indicating the judgment debtor could be held in contempt and**
33 **possibly arrested if the judgment debtor fails to appear;**

34 **(3) The judgment debtor's name; home phone number; home address; date of**
35 **birth; marital status; dependents; and employer, employer's address, income, and**
36 **employment benefits, if applicable;**

37 **(4) If unemployed, if judgment debtor receives government assistance,**
38 **unemployment, Social Security, SSI, pension, or other income and how much the judgment**
39 **debtor receives per month;**

40 **(5) If the judgment debtor owns any real estate or beneficial interest in a land trust,**
41 **including any other names listed on such assets;**

42 **(6) If the judgment debtor has a mortgage on real estate, the mortgage company's**
43 **name and address, and an assignment of beneficial interest in the land trust;**

44 **(7) Any accounts, including checking, savings, money market or certificate of**
45 **deposit, and account balances; a safe deposit box and contents; other accounts (to be listed**
46 **specifically);**

47 **(8) If the judgment debtor owns a vehicle, including the year, make, model, and**
48 **vehicle identification number, jewelry (to be listed specifically), stock/bonds (the amounts),**
49 **personal computer, DVD player, television, stove, microwave, work tools, business**
50 **equipment, farm equipment, and other property (to be listed specifically);**

51 **(9) A line for the judgment debtor to sign such form.**
52

53 **If the judgment debtor fails to complete the form or the form is incomplete, the court may**
54 **proceed with an action against the judgment debtor for the purpose of allowing the**
55 **judgment creditor to discover income and assets belonging to the judgment debtor or**
56 **which the judgment debtor has an interest.**

57 **6. If a citation is directed by the court to a judgment debtor who is a natural**
58 **person, no payment order shall be entered to the judgment creditor unless the income and**
59 **asset form was served upon the judgment debtor as required by subsection 5 of this section,**
60 **the judgment debtor had an opportunity to assert exemptions, and the payments are from**
61 **nonexempt sources. If upon examination the court determines the judgment debtor does**
62 **not possess nonexempt income or property assets, the citation shall be dismissed.**

63 **7. No debtor shall be repeatedly summoned unless the creditor has evidence that**
64 **circumstances have changed, including a new debt by the debtor.**

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